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However, Plaintiff's allegations that OLMS Agent Kemp provided false evidence to secure his prosecution fail because they do not plausibly allege that he knew or purposefully presented any falsehoods to the prosecutor. Likewise, the allegations that the agents and IRS employees engaged in a civil conspiracy to propagate misrepresentations to the prosecutor fails because Plaintiff does not plausibly allege that the agents engaged in a common scheme with the IRS employees, pursuant to which the agents knowingly presented false evidence in order to bring about Plaintiff's prosecution.

Finally, despite naming OLMS and TIGTA agents as Defendants, Plaintiff specifically identifies only OLMS Agent Kemp as the actor who allegedly knowingly provided false testimony and altered documents to secure Plaintiff's indictment. Because Agent Kemp is not an "investigative or law enforcement officer" within the meaning of the FTCA, the United States is immune from suit pursuant to the intentional tort exception. The United States is also immune from suit because OLMS Agent Kemp was acting in his discretion in referring his findings to the prosecutor. These immunities deprive the Court of jurisdiction.

Apart from the claims against OLMS Agent Kemp, there are no cognizable allegations that TIGTA agents engaged in any presentation of false evidence, and therefore Plaintiff has failed to state a claim against TIGTA.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following, if registered, by operation of the Court's electronic filing system. If not registered, notice was sent by First Class, United States mail, postage prepaid, to the following:

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s/ Dean S. Atyia
DEAN S. ATYIA
Assistant United States Attorney